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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,615	08/17/2001	Richard G. Hartmann	END920010020US1	5353
7590 12/28/2007 IBM CORPORATION - DEPT. 917 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829			EXAMINER STRANGE, AARON N	
			ART UNIT 2153	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/932,615	<b>Applicant(s)</b> HARTMANN ET AL.	
	<b>Examiner</b> Aaron Strange	<b>Art Unit</b> 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-31 is/are allowed.
- 6) ☒ Claim(s) 49-106 is/are rejected.
- 7) ☒ Claim(s) 1-17 and 32-48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

### ***Response to Arguments***

2. Applicant's arguments, see pages 34-54, filed 10/11/07, with respect to the rejection of claims 1-106 under 35 U.S.C. § 103 have been fully considered and are persuasive. The rejection of those claims has been withdrawn.

However, various objections and rejections under 35 U.S.C §§ 101 & 112 have been presented below.

### ***Claim Objections***

3. Claims 1-17 and 32-48 are objected to because of the following informalities:
  - a. There appears to be a typographical error "Method for" in the preamble of claims 1 and 32. The Examiner recommends amending the claim to recite "A method for".
  - b. There appears to be a typographical error "System for" in the preamble of claim 63. The Examiner recommends amending the claim to recite "A system for".

All dependent claims are objected to by virtue of their dependency from the above claims. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 49-70 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

6. Claim 49 is not limited to statutory subject matter. The claim is directed to a client system comprising only "logic" elements. The specification fails to define "logic" elements, and the broadest reasonable interpretation of the term includes software per se. The Examiner recommends amending the claim to positively recite that the logic elements are stored in a memory on the client system.

7. Claim 58 is also not limited to statutory subject matter. The claim is directed to "logic" elements and "an exit program". Similar to claim 49, these limitations encompass software per se. The Examiner recommends amending the claim to positively recite that the logic elements and exit program are stored in the appropriate parts of the system.

8. Claim 63 is rejected under the same rationale as claim 49. The claim is also directed to a system comprising only logic elements.

9. Any dependent claims introducing logic elements or software programs should also be amended to positively recite that those elements are stored on the appropriate system elements. At least the following claims fall into this category: 51, 53, 54, 55, 56, 57 and 70.

10. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 60, 62, 71-106 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. Claims 60 and 62 recite the limitation "said logic element". There is insufficient antecedent basis for this limitation in the claim, since claim 58, from which these claims depend, contains multiple logic elements.

14. With regard to claims 71 and 88 (line 2 of each claim), the term "tangibly embodying" renders the claim indefinite. The term "tangible" is not defined by the

specification or the claims, and it is unclear how something may be "tangibly" embodied.

The Examiner recommends amending the claim to recite "having stored thereon" or a similar limitation making it clear that the program is stored on the storage device.

15. With regard to claim 105, the term "a physical storage medium" in line 9 is unclear. Claim 105 is directed to a computer program product embodied on a physical storage medium. It is unclear how the product may comprise a storage medium. The Examiner recommends removing line 9 from the claim.

16. Claim 106 is rejected under the same rationale as claim 105. It also contains an additional recitation of a physical storage medium at line 9.

17. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

18. The Examiner has reviewed the claims and has not located any additional issues. However, due to the large number of pending claims, Applicant should carefully review the claims to ensure that there are not grammatical errors and that all claim terms have proper antecedent basis.

***Allowable Subject Matter***

19. Claims 1-17 and 32-48 are allowed.


**Conclusion**

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS  
12/21/07



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